

Honorable Kermitt Gordon
Director
Bureau of the Budget
Washington 25, D. C.

Attention: Mr. Martin A. Kramer

Dear Mr. Gordon:

Reference is made to the Bureau's letter of 4 December 1963 requesting the views of this Agency on the Department of State draft bill to amend the Missing Persons Act (50 U. S. C. App. 1001 et seq.) to include coverage of aliens employed by the United States Government outside the continental United States. The proposed legislation would apply retroactively to all periods after 31 December 1945 during which an alien who had been employed for service outside the continental United States occupied a status listed in section 2 of the Missing Persons Act.

We note that a question exists as to the literal application of the Missing Persons Act to persons who are arrested, tried and imprisoned in foreign countries. H. R. 2989, a bill to amend the Missing Persons Act to cover certain persons detained in foreign countries against their will and for other purposes, which was proposed by the Department of Defense, was passed by the House of Representatives on 8 July 1963 and is now awaiting action by Senate Armed Services Committee. H. Report No. 411, to accompany H. R. 2989, indicates that that bill would provide specific coverage in cold war situation for personnel employed by the Federal Government who are arrested or otherwise detained by foreign governments in other than a hot war situation. The Report states in part at page 1:

At present, the benefits of the Missing Persons Act are provided for persons within the scope of the act who are 'officially determined to be absent in a status of missing, missing in action, interned in a foreign country, captured by a hostile force, or besieged by a hostile force.' All of these terms, with the exception of the word 'missing' standing alone and possibly 'interned in a foreign country' were originally predicated upon a declared war and if treated literally, would imply a condition of declared war.

The proposed amendments to the Missing Persons Act [contained in H. R. 2969] would add the words 'detained in a foreign country against his will' and would thus provide specific coverage in cold war situation. . . .

This Agency has no objection to the draft proposal of the Department of State. In our opinion such an amendment to the Missing Persons Act would create no new benefits for aliens utilized in Agency operations abroad. However, the retroactive application of such an amendment could create difficult administrative problems and possibly some security problems with respect to certain employed aliens.

Sincerely,

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Legislative Council